

Response to Notice of Non-Compliant Amendment (37 CFR 1.121)  
Serial No. 09/757,255

### LISTING OF CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application.

E 1-23. (Canceled)

24. (Currently amended) A freestanding tool holding device comprising:

a first rail; and

a second rail vertically and horizontally offset from ~~each other~~ the first rail thereby forming an opening therebetween for receiving a lower end of an elongate member therein,

the rails further characterized by generally opposed edges for simultaneously contacting and exerting reaction forces on the elongate member when inserted therebetween, to lodge and restrain so that the elongate member is disposed in a generally vertical and leaning orientation therein therebetween,

said tool holding device lacking means a base plate for supporting the lower end of the elongate member when received between the rails.

25. (Currently amended) A device according to claim 24 wherein the rails comprise generally parallel crossbars ~~further characterized by generally opposed edges for contacting the elongate member when inserted therebetween.~~

26. (Currently amended) A device according to claim ~~25~~ 24 further characterized by at least one depression formed in at least one of ~~the crossbars along the opposed edges in the crossbars.~~

27. (Canceled)

28. (Currently amended) A device according to claim 26 wherein two depressions are formed ~~in the crossbars along the opposed edges thereof, and are generally aligned, thereby restricting movement of to further restrain the elongate member when disposed therein.~~ *in each*

Response to Notice of Non-Compliant Amendment (37 CFR 1.121)  
Serial No. 09/757,255

- E1  
Cont'd
29. (Previously presented) A device according to claim 25 further comprising two end plates attached to side edges of the crossbars, whereby the end plates and the crossbars form a stable structure. *NOTE: OK for now 12/1/03*  
*relative-delete*
30. (Previously presented) A device according to claim 29 wherein outward extents of the end plates define a footprint and wherein a vertical projection through a center of gravity of an elongate member inserted between the crossbars lies within the footprint.
31. (Withdrawn) A device according to claim 24 further comprising at least one elongate member inserted between the rails, the elongate member including a support for supporting an item thereon.
32. (Withdrawn) A device according to claim 31 further comprising a shelf disposed on the support.
33. (Withdrawn) A device according to claim 24 wherein the first rail and the second rail comprise a first hoop and a second hoop generally concentric therewith, ~~further wherein the first hoop and the second hoop comprise generally opposed edges for contacting the elongate member when inserted therebetween.~~
- 34-36. (Canceled)
37. (Withdrawn) A device according to claim 36 ~~33~~ further comprising at least one leg attached to the hoops, thereby forming a stable structure.
38. (Withdrawn) A device according to claim 37 wherein an outward extent of the at least one leg defines a footprint, wherein a vertical projection through a center of gravity of an elongate member inserted between the hoops lies within the footprint.
39. (Currently amended) A method for storing elongate members comprising the steps of:  
providing a freestanding tool holding device comprising a first rail and a second rail, positioning said rails vertically and horizontally offset from each other to form an opening therebetween for receiving a lower end of an elongate member therein, the rails further characterized by generally opposed edges for simultaneously contacting and exerting reaction forces on the elongate member when inserted therebetween, to lodge

Response to Notice of Non-Compliant Amendment (37 CFR 1.121)  
Serial No. 09/757,255

and restrain the elongate member in a generally vertical and leaning orientation therebetween; and

inserting a lower end of an elongate member in the opening between said rails ~~so that the elongate member is disposed in a generally vertical orientation therein without~~ providing means a base plate for supporting the lower end of the elongate member when received between said rails.

40. (Canceled)

41. (Currently amended) A method according to claim 40 39 further comprising forming at least one depression in at least one of said rails along said opposed edges.

42. (Currently amended) A method according to claim 40 39 further comprising:

~~forming at least one~~ two depressions along said opposed edges ~~first edge of said~~ <sup>on each?</sup> ~~first rail; and~~

~~forming at least one depression along said second edge of said second rail,~~ wherein said depressions ~~formed along said first edge and said second edge~~ are generally aligned, ~~thereby restricting movement of~~ to further restrain the elongate member when the lower end thereof is disposed between said rails.

Response to Notice of Non-Compliant Amendment (37 CFR 1.121)  
Serial No. 09/757,255

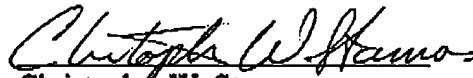
**CONCLUSION**

Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection, and allowance of claims 24-26, 28-33, 37-39, and 41-42 in due course. The Examiner is invited to contact Applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Applicant believes that no extension-of-time fee is required for this Amendment and Response to be entered and considered. However, please consider this a conditional petition for the proper extension, if one is required, and a conditional authorization to charge any related extension fees necessary for entry of this paper to Deposit Account No. 20-0531.

Respectfully submitted,

Date: September 29, 2003

  
Christopher W. Stamos  
Attorney for Applicant  
Reg. No. 35,370

Testa, Hurwitz, & Thibault, LLP  
125 High Street  
Boston, MA 02110

Tel. No. (617) 248-7026  
Fax No. (617) 248-7100

2689257

RECEIVED  
CENTRAL FAX CENTER

SEP 29 2003

OFFICIAL